

STATE OF MICHIGAN  
COURT OF APPEALS

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HUNTINGTON NATIONAL BANK,

Plaintiff-Appellant,

v

DEBI ROBACH,

Defendant-Appellee,

and

RONALD ROBACH,

Defendant.

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UNPUBLISHED

August 29, 2006

No. 267758

Ionia Circuit Court

LC No. 04-023682-CK

Before: Davis, P.J., and Sawyer and Schuette, JJ.

DAVIS, P.J. (*concurring*).

I respectfully concur in the result reached by the majority on the basis of defendant's failure to comply with the technical requirements of the court rules. I write separately to emphasize that defendant substantially asserted a statute of limitations defense before answering, albeit in a successful motion to set aside plaintiff's default judgment rather than a "pleading" as defined by the court rules. Therefore, I do not believe justice could fail to require that leave be granted for plaintiff to amend her pleadings to add a statute of limitations defense, and I do not believe plaintiff could be prejudiced thereby.

/s/ Alton T. Davis